

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

SB 1778 - HB 1830

June 18, 2020

SUMMARY OF ORIGINAL BILL: Clarifies that a "bed and breakfast homestay" may be operated in a private condominium, as well as a private home, for purposes of the *Bed and Breakfast Establishment Inspection Act of 1990*.

FISCAL IMPACT OF ORIGINAL BILL:

NOT SIGNIFICANT

IMPACT TO COMMERCE OF ORIGINAL BILL:

NOT SIGNIFICANT

SUMMARY OF AMENDMENTS (018051, 018828): Amendment 018051 deletes all language after the enacting clause. Defines terms related to and including "short-term rental unit marketplace". Requires these marketplaces to collect and remit any local tax on the occupancy of a room by a transient to the Department of Revenue (DOR). Authorizes the DOR to deduct 1.125 percent of the collected tax to cover any costs related to the collection and distribution of this tax for local governments. Defines the term "transferred" as it relates to regulations governing Short Term Rental Property (STRP) by local governments. Requires parcels of real property which serve as the principal residence of the owner and contain one short-term rental unit to be assessed as residential property.

Amendment 018828 deletes and rewrites Section 11 within amendment 018051 such that the substantive change would require residential classification of real property meeting certain qualifications, if requested by certain property owners.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENTS:

Other Fiscal Impact – A precise recurring decrease in local government property tax revenue cannot reasonably be determined. Any fiscal impact to state government is considered not significant.

Assumptions relative to short-term rental marketplace collections:

- Effective January 1, 2021, the proposed legislation will require all short-term rental unit marketplaces to begin collecting and remitting any local tax on the occupancy of a short-term rental unit secured through the marketplace to DOR.
- DOR will be required to distribute the taxes collected on a monthly basis to the applicable local governing body in which the short-term rental unit was located and the tax was collected. Any impact on local tax collections is estimated to be not significant as such taxes are currently owed to local governments.
- Any increase in expenditures to DOR associated with collection and distribution of local taxes will be offset by the 1.125 percent distribution authorized in this proposed legislation; therefore, the net impact is considered not significant.

Assumptions relative to regulations of STRPs by local governments:

- Pursuant to Tenn. Code Ann. § 13-7-603 and § 13-7-604, effective May 17, 2018, local ordinances, regulations, and requirements governing STRPs which are in place on the date a property becomes a STRP, are the ordinances, regulations, and requirements which govern such property until the property is sold, transferred, ceases to be a STRP for 30 continuous months, or is found in violation of such local requirements 3 or more times.
- The proposed language defines the term transferred to mean:
 - An interest in real estate was conveyed on or after May 17, 2018; and
 - The conveyance is exempt from the recordation tax pursuant to Tenn. Code Ann. § 67-4-409(a)(3)(A)(i) and (a)(3)(E)-(F).
- Pursuant to Tenn. Code Ann. § 67-4-409(a)(3)(A)(i) and (a)(3)(E)-(F), a state privilege tax is assessed on the transfer of any interest in real estate, except when such transfer is a:
 - Creation or dissolution of a tenancy by the entirety by the conveyance from one spouse to another;
 - Domestic settlement decree or deed that is an adjustment of property rights between divorcing parties; or
 - Transfer of real estate to a revocable living trust or from a revocable living trust back to the transferor or their spouse.
- The proposed language will result in STRPs other than those defined as “transferred” under the proposed language remaining under the governance of their current governing ordinances and regulations when the property is transferred. It is unknown if such STRPs would have been required to reapply for a permit to maintain status as an STRP and the extent of any such application fee charged by the local government.
- The extent of STRPs statewide which are transferred in a method which would maintain current regulations over their governance, the extent of such current regulations governing such STRPs, and the extent of regulations which would govern such STRPs in the absence of this legislation is unknown. A precise impact to local government cannot reasonably be determined given the extent of unknown factors.

Assumptions relative to property tax assessments:

- Pursuant to Tenn. Code Ann. 67-5-801:
 - For purposes of taxation, all real property is classified according to use and assessed based upon such use;
 - Residential property is assessed at a rate of 25 percent of the value, and commercial property is assessed at a rate of 40 percent; and
 - When a parcel of real property is used for more than one purpose, which would result in different sub-classifications and different assessment percentages, then it shall be apportioned among the subclasses according to guidelines established by rules and regulations of the State Board of Equalization (SBOE).
- The proposed language:
 - Requires parcels of real property which serve as the owner's principal residence and contain no more than one short-term rental unit to be assessed as residential property;
 - Establishes that Assessors of Property, upon receipt of a written affidavit from such owners, should presume residential classification for a maximum of one additional parcel of property in this state when: (1) such property contains not more than one rental unit; (2) such property is used as a short-term rental unit; (3) the owner of the property lives on the property a maximum of 14 days each year or at least 10 percent of the number of days the property is rented; and
 - Includes assessments occurring on or after August 1, 2020 and requires such affidavits to be filed by September 1 of the year prior.
- Due to the extent of unknown factors such as the number of applicable parcels of real property statewide, the number of additional properties owned by such qualified owners, if any such owner-occupied property is currently assessed for more than one purpose, if such owner has additional properties which are not currently assessed as residential; and the extent of local government property tax revenue currently realized from current assessments, a precise recurring decrease in local government property tax revenue cannot reasonably be determined.

Assumptions relative to total fiscal impact:

- Any increase in expenditures to DOR associated with collection and distribution of local taxes will be offset by the 1.125 percent distribution authorized in this proposed legislation; therefore, the net impact is considered not significant.
- Any impact on local tax collections is estimated to be not significant as such taxes are currently owed to local governments.
- A precise impact on local government as a result of changes to local regulation of transferred STRPs cannot reasonably be determined due to the extent of unknown factors.
- A precise recurring decrease in local revenue associated with changes to the classification of such properties cannot reasonably be determined.

IMPACT TO COMMERCE WITH PROPOSED AMENDMENTS:

Other Fiscal Impact – A precise impact to commerce in Tennessee cannot reasonably be determined given the extent of unknown factors.

Assumptions for the bill as amended:

- Any impact to short-term rental unit marketplaces for the collection and remittance of such taxes to DOR is estimated to be not significant.
- The proposed language will result in certain STRPs remaining under the governance of their current governing ordinances and regulations. It is unknown if such STRPs would have been required to reapply for a permit to maintain status as an STRP and the extent of any such application fee charged by the local government.
- The proposed language may result in a change in how applicable parcels of real property are assessed. The number of such parcels, how they are currently assessed, and the extent of property taxes paid for such parcels are unknown.
- A precise impact to commerce in Tennessee cannot reasonably be determined given the extent of unknown factors.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Krista Lee Carsner, Executive Director

/jrh